



**TOWN OF HARPSWELL
PLANNING BOARD MINUTES
November 19, 2008
APPROVED**

MEMBERS PRESENT

Joanne Rogers, Chair
John Papacosma, Vice Chair
Robin Brooks, Secretary
Dorothy Carrier
Roberta Floccher
Debora Levensailor, Associate

MEMBERS ABSENT

STAFF PRESENT

Carol Tukey, Town Planner
Melissa Moretti, Recording Secretary

The Town of Harpswell Planning Board meeting, being duly advertised in the Brunswick *Times Record*, was called to order at 6:30 PM by Joanne Rogers, Chair. Introductions were made of Board members, and the Pledge of Allegiance was recited.

The Chair read the Agenda and explained the hearing process and procedures for Planning Board meetings.

CONSIDERATION OF MINUTES

The Chair asked for additions/adjustments from the Board regarding the Minutes of October 19, 2008. Ms. Carrier made a motion to accept the Minutes as printed; the motion was seconded, and the Board voted unanimously to approve the Minutes.

SITE VISIT

The Chair stated that she attended the site visit on Monday morning, November 17th, along with Ms. Carrier and Mr. Brooks. They visited both the Bethel Point and the Malcolm Drive locations in Harpswell.

OLD BUSINESS

08-07-02 Tower Specialists, Inc. (Applicant), Tax Map 42 Lot 70, Site Plan Review

Paul Strout spoke as a representative of Tower Specialists, Inc. ("TSI"). He explained that his company had the approval to build the communications tower which would be located behind the recycling center. He was before the Board because of the Planning Board's request that there be an engineering review of the road into the site. He said that the road would be located off Community Drive just below the scale house, and would go approx. 140' to the tower. He said the road would have little use (perhaps 5 times/month), and that it would probably not be a road open to the public. The road base is currently of crushed glass, which there is no engineering basis for. He explained that he felt the road had been weight tested over time, due to the use it has had from the recycling center equipment. He said he had spoken to the Town Planner, Ms. Tukey, regarding the cost of the requested engineering oversight; she had estimated that about \$6500 would have to be put in escrow. He suggested that figure would probably be higher than the entire road construction – a glass base, with a coating of gravel over it. He said he had also spoken with the Code Enforcement Officer, who had said he could approve the road, drainage, etc., but that the Planning Board had given TSI the stipulation of having engineering oversight.

The Chair said that there appeared to be concern regarding §15.9 Stormwater Management, §15.10 Erosion Control, and the use of glass as a road sub-base. She asked Mark Wallace of the recycling center to address the Board; Mr. Wallace was in the audience to speak on behalf of TSI.

Mr. Wallace explained that he had been in construction since 1970 and had worked with many different road materials. He said that he had begun the glass "filler" in 2001, and there was now about 200' of roadway

headed into the direction of the proposed tower site. He stated that it has been a very good material for a road bed; frost heaves are not an issue, and it "never moves". He explained that there is a layer of gravel or sand to cover the glass. He said that the compaction of the glass was "amazing", and that it was always hard, even in the spring.

Mr. Papacosma asked Mr. Wallace if, in his judgment, the road would be able to stand up to the traffic of heavy construction vehicles during the construction phase of the tower project.

Mr. Wallace responded that a tractor trailer backing in there should be no problem, as the recycling center truck, fully loaded with gravel, weighs about 75,000-80,000 lbs., which is much more than any of the construction vehicles that would be used. He also explained that the sub-bed would not be just glass; after the glass gets put down, it gets covered by about a foot of gravel. He thought that there would be traffic on the road consisting of tractor trailer trucks, cement trucks, and one ton trucks. He reiterated that the road would not be accessible to the public, as the area would be fenced off when the project was completed.

Mr. Papacosma asked about the depth.

Mr. Wallace said that the deepest area, from the tower to the site, would be 3 to 3 ½ ft. of fill.

Ms. Carrier said she had spoken to other contractors involved with road construction, and they concur with Mr. Wallace's opinion.

Mr. Wallace also stated that the glass material gave a tighter compaction than feldspar for a road base.

The Chair asked Ms. Tukey if she was satisfied with that information in response to her concerns, and Ms. Tukey said that she could not make a qualified guess because she was not an engineer.

Mr. Wallace said that 200' of the road that had been built already had worked.

Ms. Tukey said she was leaving the decision up to the Planning Board, because she was not professionally qualified to comment on the storm water management, the erosion control, the use of a glass road, and whether they were qualified as appropriate.

Mr. Wallace commented on the erosion control, and said that when the road was finished, there would be an ECM mix (wood chips) that the contractor would use to cover the road shoulders and the slopes.

There was discussion regarding the culvert, and that there would be rip rap on the lower end for erosion control.

The Chair asked if there were any further questions for Mr. Strout or Mr. Wallace from the Board; there were none. The Chair asked if there were any questions from the audience; there were none.

Ms. Carrier said that she believed everything submitted by Tower Specialists regarding the road was satisfactory, and made the motion for the Board to waive the requirement for an engineer's study. The motion was seconded, and the comment was made that the decision was not intended to establish any precedent.

There were no further comments, and the motion passed unanimously.

NEW BUSINESS

The Chair requested that the second item on the Agenda be heard first; the Board agreed.

08-11-02 Sharon Johnson (Owner/Applicant), Workshop for Rezoning Request, Tax Map 17 Lots 36 & 38, 6 Malcolm Drive, Harpswell

Sharon Johnson addressed the Board, and explained that her rezoning request was in order to make her property in compliance with the rest of the neighborhood, specifically, the Dolphin Marina and Restaurant. She stated that most neighboring properties were already zoned for shoreland business, and she was thinking of starting a business there in the future.

The Chair asked if the Board had any questions of the applicant.

Ms. Levensailor asked about the type of business Ms. Johnson was considering, and she mentioned that she was thinking of a gift shop as a possibility.

Ms. Tukey explained that the issue before the Board was meant to be a workshop in order for Ms. Johnson to explain more about what she wanted to do. A vote could be taken at the December Planning Board meeting after it was advertised and after abutters, etc. were officially notified of the issue. She stated that the issue was addressed as a workshop in order for the Board to have preliminary discussions and address any issues/concerns that might cause a delay in the process prior to the Town meeting, since that agenda had to be set by early January.

The Chair stated that the Board would vote on the issue at the December Planning Board meeting. It was clarified that the Board's vote would recommend to the Town that the zoning for those two lots be changed.

08-11-01 Patric Scanlan (Owner), James Herrick (Applicant), Reconstruction of Non-Conforming Structure, Tax Map 60 Lot 28, 286 Bethel Point Road, Harpswell

Mr. Herrick addressed the Board and gave the history of his involvement with Mr. Scanlan's property. He stated that Mr. Scanlan intended to retire to the property in the future. Presently, he spends summers there with his wife and young children. [According to the Town Planner's memo, the issue was before the Board because the structure was 1) a residential unit not allowed in the Commercial Fishing District I ("CF1"), 2) within the 75 ft. setback from the shoreline, and 3) portions of the property, including the existing and proposed house and outbuilding are within the 100 year floodplain.]

Mr. Herrick stated that Mr. Scanlan was offering to remove several areas of his shoreland property from future development. He said that the house was of 1960's construction, it had standing water in the basement, was poorly insulated and the roof structure was bowing. Also, the house was not very large, which was acceptable to Mr. Scanlan. Mr. Herrick referred to his letter to the Planning Board which was included in the Board's materials, and explained the proposed project by referring to the plot plan displayed on an easel.

The Chair asked if the Board had any questions; there were none. Mr. Herrick distributed a copy of a photograph of the property to the Board. The Chair asked if there were comments from the audience.

Sheila Pulver, a neighbor to the property, addressed the Board. She admitted that putting some of the property into conservation easement was a generous offer, but thought that, because of the way the property was divided when it had been sold, it couldn't be subdivided into more than two parcels. She didn't see how

the conservation easement would benefit the Town or the neighborhood very much given how she understood that the land had been passed down.

Mr. Herrick stated that they had a copy of the deed, and he did not see that issue addressed; he asked the Board if they had.

Ms. Pulver informed the Board that the abutters to the property had received letters from the lawyers of the man who had inherited the property which asked if he could subdivide the property in order to sell it, and only half of the abutters agreed. She said he had wanted to split the property into smaller parcels, and was not able to; Mr. Scanlan had bought the property in its entirety. She discussed the existence of an old meetinghouse on the road, and that the ownership of that property (not the building itself) had been an issue with the neighborhood, and there had been some discussion about whether it would revert to the previous owner. She asked Mr. Herrick if he had heard anything about it.

Mr. Herrick said that he thought if the building wasn't used for a certain period of time, ownership would revert to the original owner. It was his understanding that the church did not own the land, but the right to use the land. If they did not use it, it would revert to the original owner, now Mr. Scanlan.

Ms. Pulver said that she didn't think that was the understanding. She explained the historical significance of the building and that it was valued by the neighborhood.

Lily Stouffer, from the audience, asked Mr. Herrick to clarify the property shown in proposed conservation easement.

Mr. Herrick suggested different scenarios: 1) if the church group wanted to move it back to get some parking, 2) if the church group didn't continue to use the building and it reverted back to the original owner, the land would be quite valuable, or 3) (as stated by Ms. Stouffer) you could level the building and put in a road to the rest of the property. Ms. Stouffer said that if there was a default on the property where the church was, then there would be another access. She asked for clarification of "conservation easement", and Mr. Herrick stated that it meant there could be no buildings put on the property "forever". He also clarified that, if the conservation easement was approved by the Planning Board, it would have to be drawn up legally.

Ms. Stouffer said that she had documentation which stated that all the abutting property owners had to sign off on any subdivision of the property. She also asked about the ring of cedar trees on the property, and if they would be leveled. Mr. Herrick clarified that the ordinance would govern how many trees could be cut down.

Mr. Herrick said that it was uncertain what would happen with the church, and that several scenarios would be left open.

The Chair asked for other comments.

Henry Bird, a neighbor, spoke about the church which was presently being repainted. He stated that it was intended to remain open and active.

Ms. Pulver spoke about the beauty of the road, and how a recently built large home had changed the character of the road. She made a plea to the Board to not allow a changing of the character of the neighborhood.

Ms. Stouffer asked what the alternative would be if the Planning Board rejected the proposition, and Mr. Herrick said it would be "difficult to say".

The Chair asked for other comments; there were none, and she opened the meeting to Board discussion.

Ms. Levensailor stated that she would want more information from the Applicant before she could vote on the matter. She had specific questions: 1) why was the land around the church exempted, 2) what would the easement involve, and 3) of what use would that land be to the Town? She also said that there had been no measurements of the home provided for the project. She referred the Board to the Shoreland Zoning Ordinance, §10.3.1.2, and wanted to know the height of the home presently and the height of the proposed home.

The Chair clarified that those numbers had not been provided due to the fact that the Planning Board had not yet made the determination to accept the proposed reconstruction. It was assumed that, if accepted, the Applicant would return to the Planning Board then and provide more complete information.

There was discussion of whether or not the Board had the authority to “greatly exceed” the existing Ordinance.

Mr. Papacosma suggested that there was room to make the reconstruction totally conforming.

The Chair clarified that the question before the Board was whether they wished to consider allowing the easement and the conservation area and relaxing the Ordinance requirements to that extent.

The Town Planner said that the Board did not have the authority to trade relaxation of the rules, and that they could suggest that the Applicant approach the Board of Selectmen, who have the authority to accept land, and they would also go to Town Meeting for a Town vote to accept that land. She said that another option would be to have a conservation easement through the Land Trust. She reiterated that the only duty of the Planning Board was to deal with the ordinances.

The Chair stated that it was the Planning Board’s recommendation to approach the Board of Selectmen.

The Town Planner explained that if the Applicant went through the easement process with the Town, then the matter would have to go before Town Meeting, because the Town would have to accept any “gifts”. She stated that the Planning Board dealt only with the ordinance, which would be a separate issue from an easement. She said they would have no jurisdiction in the easement situation, just the construction. The Applicant would have to return to the Planning Board with an elevation drawing of the existing building and the new proposed building.

There was further discussion among the Board regarding their jurisdiction. It was decided by the Board that a decision on the matter would be premature, as more information was needed. The suggestion was made to table the matter, based on the Board’s discussion.

The motion was made to table the matter until a date uncertain; the motion was seconded.

The Chair asked if there was any further discussion; there was none.

The Board voted unanimously to table the matter until a date uncertain.

OTHER BUSINESS

Consideration of Planning Board exercise of jurisdiction over applications(s) pursuant to Site Plan Review Ordinance §16.4 and/or Shoreland Zoning Ordinance §10.3.2.3.

There were no jurisdictional issues to discuss.

Town Planner's Updates

There were no Town Planner's updates to discuss.

A motion was made to adjourn, which was seconded.

The meeting adjourned at 7:37 PM.

Respectfully Submitted,

Melissa Moretti
Recording Secretary